Ministry of
the Attorney
General

Second Report of the Attorney General's Committee on the Representation of Children

September 1978

REPORT OF THE ATTORNEY GENERAL'S COMMITTEE ON THE REPRESENTATION OF CHILDREN

KF
479
O573
1978
c.1
Ontario
[Second] Report of the Attorney General's Committee on the Representation of Children

MINISTRY OF THE
ATTORNEY GENERAL

SEPTEMBER 1978

Ontario

Ministry of the Attorney General

Attorney General's Committee
on the Representation of Children

The Honourable R. Roy McMurtry, Q.C.
Attorney General for Ontario
Toronto, Ontario

Dear Mr. Attorney:

The Attorney General's Committee on the Representation of Children has the honour to submit its Second Report.

Yours respectfully,

Derek Mendes da Costa

Dr. Derek Mendes da Costa, Q.C.
Chairman

Clive Chamberlain

Dr. Clive Chamberlain

Lee K. Ferrier, Q.C.

Barbara A. Chisholm

Barbara A. Chisholm

Robert J. Klassen

Jerome D. Diamond

Jerome D. Diamond

Lloyd W. Perry, Q.C.

Bernard Dickens

Professor Bernard Dickens

Karen M. Weiler

W. Reid Donkin, Q.C.

Alan Wolfish

Alan Wolfish

TABLE OF CONTENTS

COMMITTEE ON THE REPRESENTATION OF CHILDREN

Part I

Introduction

1. In January, 1977, this Committee was established by the Attorney General for Ontario, the Honourable R. Roy McMurtry, Q.C. Our terms of reference may be summarized as follows:

> To consider ways in which children can be more effectively represented in proceedings under Part II of The Child Welfare Act and under the Juvenile Delinquents Act.

2. In June, 1977, your Committee presented its first Report; namely, The Report of the Committee on the Representation of Children in the Provincial Court (Family Division).

3. Subsequent to the presentation of this Report, additional members were appointed to your Committee. They were:

> J. D. Diamond, Esq., Executive Director Jewish Family and Child Service of Metropolitan Toronto;
>
> Professor Bernard M. Dickens, Faculty of Law, University of Toronto;
>
> W. Reid Donkin, Esq., Q.C., Area Director of Legal Aid, York County;

Clive Dove, Esq., Counsel, Catholic Children's Aid Society; and,

Alan Wolfish, Esq., Counsel, Metropolitan Toronto Children's Aid Society.

4. Furthermore, our terms of reference were expanded in two respects: first, to include custody and access proceedings in the Provincial Court (Family Division) pursuant to The Family Law Reform Act, 1978; and, secondly, to design in detail the Pilot Projects that we had proposed in our initial Report.

5. In light of the expansion of the terms of reference, the name of your Committee was changed to the Attorney General's Committee on the Representation of Children.

6. In September, 1977, your Committee appointed Ms. Katherine Catton, to design the research proposal for the Pilot Projects.

7. In May, 1978, David Hunter, Esq., was appointed by the Committee to undertake the organization and administration of the Pilot Projects.

8. In May, 1978, Clive Dove, Esq., retired from the Committee; we thank him for his contributions to the work of the Committee.

9. Your Committee wishes to gratefully acknowledge the participation and contribution of the following parties who gave up their time and energy to the Committee: namely; judges of the Provincial Court (Family Division); members of the Children's Aid Societies in the Province of Ontario; and, members of the practising Bar of the Province of Ontario.

10. Your Committee wishes to acknowledge the assistance and diligence of Ms. Katherine Catton, who undertook to prepare the research design for the proposed Pilot Projects. We also wish to thank The Child in the City Project, University of Toronto, for providing, in the initial stages of our work, the services of Ms. Katherine Catton.

11. Your Committee wishes to acknowledge the very real assistance of David Hunter, who since his appointment, undertook organizational and administrative responsibilities for the Committee.

Part II

Procedure of the Committee

12. Your Committee met on the following dates: namely, September 19th, 1977, October 11th, 1977; November 21st, 1977; January 17th, 1978; February 2nd, 1978; March 1st, 1978; March 22nd, 1978; April 12th, 1978; May 3rd, 1978; June 26th, 1978; July 10th, 1978; July 27th, 1978; and, September 18th, 1978.

13. Your Committee met in sub-committee on March 7th, 1978.

14. On September 20th, 1977, the Chairman, Dr. Derek Mendes da Costa, Q.C. and W. R. Donkin, Esq., Q.C., met with Senior Judge Robson, Provincial Court (Family Division), Judicial District of Sudbury, to discuss the Pilot Projects.

15. Various members of your Committee met with David Hunter to discuss the organization of the proposed Pilot Projects. In this context, special gratitude must be extended to Alan Wolfish, Esq., who has been of particular assistance to David Hunter.

Part III

Staff Activities

16. Since September, 1977, Katherine Catton has been engaged with the Committee in preparing the research design of the proposed Pilot Projects. This work has been completed and Ms. Catton's proposal, entitled: Legal Representation of Children in the Family Courts: A Research Proposal, is appended as a Schedule to this Report.

17. Since May, 1978, David Hunter has been involved in the preparation of materials relating to the administration and operation of the proposed Pilot Projects. In the course of this preparation he visited selected Provincial Courts (Family Division). Furthermore, David Hunter has prepared a Policy Discussion Paper for your Committee; and, several Discussion Papers for the Chairman.

Part IV

Present Situation and Future Considerations

18. On June 8th, 1978, Bill 114, being a Bill introducing The Child Welfare Act, 1978, was given first reading in the Legislature. Section 20 of Bill 114, as reprinted for consideration by the Social Development Committee, states as follows:

> 20(1) Where at any stage in proceedings under this Part, the court is of the opinion that representation for a child is desirable, the court may direct that legal representation be provided for the child.
>
> (2) In determining under subsection 1 whether representation of the child is desirable, the court shall, in addition to all other relevant considerations, have regard to the following considerations that are relevant in the circumstances,
>
> (a) any difference in the views of the child and views of the society or of a parent of a child;
>
> (b) any difference in the interests of the child and the interests of the society or of a parent of the child;
>
> (c) the nature of the proceedings, including the seriousness and complexity of the issues and whether the society is requesting that the child be removed from the home of a parent of the child;
>
> (d) the capacity of the child to express his or her views to the court;

(e) any order made under section 31 excluding the child from the hearing;

(f) the views of the child regarding separate representation, where such views can reasonably be ascertained.

It will be noted that this proposed section refers only to proceedings under Part II of The Child Welfare Act.

19. Your Committee met with H. Allan Leal, Esq., Q.C., the Deputy Attorney General, on June 26th, 1978, to consider the impact of section 20 on its future activity. In light of this proposed legislation, your Committee understands that the Pilot Projects as originally conceived, will not be established. Your Committee further understands that, at the present time, the administrative mechanism that will be required to implement section 20 of Bill 114 is being developed.

20. It has, therefore, become necessary for your Committee to consider its views on all aspects of the proposed section 20, and also on issues relating to the representation of children in relation to proceedings other than proceedings under Part II of The Child Welfare Act.

Part V

Section 20 of Bill 114

21. In its initial Report, your Committee, at page 34, made the following recommendation:

> "that The Provincial Court Act be amended as follows:
>
> (a) where a child is not legally represented, to require a Judge at the time of an application under Part II of The Child Welfare Act, or at any stage of such a proceeding, to determine whether legal representation of a child is desirable; and,
>
> (b) if the Judge is of the opinion that such representation is desirable, to appoint counsel to represent the child."

Your Committee has studied the proposed section 20 of Bill 114 and welcomes this provision.

22. Your Committee notes that its recommendation, set out above, provided that a Judge should "appoint counsel" to represent a child. The proposed section 20(1), on the other hand, provides that a court "may direct" that legal representation be so provided. Your Committee wishes to express its preference to the approach contained in the proposed section 20(1). This approach is more consistent with the independence of counsel.

However, your Committee considers that the proposed section 20 could be amended so as to sharpen the intent of that section and to forestall administrative and substantive difficulties.

23. As mentioned above, the proposed section 20(1) of Bill 114 provides:

> 20(1) Where at any stage in proceedings under this Part, the court is of the opinion that representation for a child is desirable, the court may direct that legal representation be provided for the child.

24. Your Committee wishes to make three comments concerning this provision.

First, it may be noted that the proposed section 20(1) does not make a child a party to the proceedings. It could, therefore, be contended that the general rule is that a child has no status to be represented by counsel, but that this entitlement occurs only upon the direction of the court.

The proposed section 20(1), as originally drafted, provided as follows:

> 20(1) Where a child is not represented by counsel at any stage in proceedings under this Part, if the court is of the opinion that representation is desirable, it may direct that legal representation be provided for the child.

Your Committee did not read this original version of the proposed section 20(1) as limiting, in this way, the entitlement of a child to counsel. The opening words of this original provision read as follows: namely, "Where a child is not represented by counsel....". In the view of your Committee, these words revealed by implication the intention of the Legislature that a child might be represented by counsel, even absent a court direction.

The opening words referred to above have, however, been omitted from the revision of the proposed section 20(1). Possibly, these words were considered redundant and therefore unnecessary, on the basis that, as a court would only direct that legal representation be provided for a child where the child was in fact not otherwise represented, they served no useful purpose. However this may be, the omission of these words from the revision of the proposed section 20, seems to render less certain the legislative intention that a child may be represented by counsel, even absent a court direction.

Secondly, your Committee is of the view that a court should direct its attention to the issue of legal

representation for a child at the time when proceedings are first before the court; although we recognize that facts, that reveal the desirability of representation, may only emerge at some later stage.

This concern seems reflected in the proposed section 20(1), in that the opinion of the court is related to "any stage" in proceedings under Part II. It could, however, be argued that these words do not isolate the point of time at which a judicial determination as to representation should ordinarily be made. It could, rather, be asserted that they are merely words descriptive of a continuing state of affairs. However this may be, a short amendment to section 20(1) would place this matter beyond doubt.

The third comment your Committee wishes to make may be stated in this way. The proposed section 20(1) provides that if the court is of "the opinion" that representation is desirable, it may direct that legal representation be provided for a child. It could be asserted that these words render the issue of representation a discretionary issue. This

is not our understanding of the proposed section 20(1).

In our view, if the court finds on a consideration of the facts and circumstances of the case, that "representation for a child is desirable", the court must carry out the provisions of the proposed section 20(1) and direct that legal representation be provided for the child. Shortly stated, the proposed section 20(1) does not, in our opinion, authorize the exercise of any discretion by the court in this regard. The court is, rather, required to form an opinion with regard to the desirability of representation and to act in accordance with the opinion so formed.

Further, it appears to us that, in the context of section 20(1), the word "may" is a word of authorization and not of discretion. It would, indeed, seem curious to your Committee that should a court be of the opinion that "representation for a child is desirable", it could, nevertheless, refuse to direct the provision of legal representation. The interpretation of section 20(1) in this regard cannot, however, be said to be entirely clear.

25. To satisfy these concerns, your Committee recommends that the proposed section 20(1) be amended in this way:

20(1)(a) A child may be legally represented at any stage in proceedings under this Part.

20(1)(b) Where on an application under this Part a child is not legally represented, it is the duty of the court, before proceeding to the hearing of the evidence, to determine whether representation is desirable to protect the interests of the child. If at that or any later stage in the proceedings the court is of the opinion that representation is so desirable, the court shall direct that legal representation be provided for the child.

It will be noted that our recommended section 20(1) does not make a child a party to the proceedings: although, it does ensure that a child is entitled to be legally represented at any stage in proceedings under Part II. We are not, at this moment, prepared to recommend that a child should be made a party to the proceedings. In our opinion, further information is necessary before this decision can be satisfactorily made. It is hoped that this information will be obtained from the system of evaluation referred to below.

26. As mentioned above, the proposed section 20(2) of Bill 114 provides:

> 20(2) In determining under subsection 1 whether representation of the child is desirable, the court shall, in addition to all other relevant considerations, have regard to the following considerations that are relevant in the circumstances,
>
> (a) any difference in the views of the child and views of the society or of a parent of a child;
>
> (b) any difference in the interests of the child and the interests of the society or of a parent of the child;
>
> (c) the nature of the proceedings, including the seriousness and complexity of the issues and whether the society is requesting that the child be removed from the home of a parent of the child;
>
> (d) the capacity of the child to express his or her views to the court;
>
> (e) any order made under section 31 excluding the child from the hearing;
>
> (f) the views of the child regarding separate representation, where such views can reasonably be ascertained.

27. Your Committee wishes to make three comments concerning the proposed section 20(2).

First, section 20(2) contains provisions that are ancillary to the rule contained in section 20(1): this follows from the use of the words

"in determining under subsection 1 whether representation of the child is desirable". Accordingly, even though the word "shall" in section 20(2) imposes a mandatory duty on the court to consider the guidelines contained in section 20(2)(a) to (f), there is no statutory requirement on the court to direct that legal representation be provided for a child, should one or more of these guidelines be established. The establishment of one or more of the guidelines contained in section 20(2)(a) to (f) would, however, be a relevant factor in formulating the opinion of the court pursuant to section 20(1).

Whatever may be the role and function of the guidelines contained in the proposed section 20(2)(a) to (f), your Committee wishes to make a second comment. In our view, section 20 imposes no obligation on any party to bring to the attention of the court evidence upon which a court could make a determination as to representation. Presumably, however, the court could, at the outset of the hearing, direct to all parties such inquiries as it considers appropriate in the circumstances. It would further appear that, at this point in time, any party could address the

court on the issues raised in section 20(2).

The last comment of your Committee concerns the issues of delay. It is readily conceded that some element of delay is inherent in any scheme of court directed representation. It seems obvious that the central theme of any such proposal is a judicial assessment of all relevant facts.

It follows, however, from the use of the word "shall" that the court must consider each and every one of the guidelines contained in the proposed section 20(2)(a) to (f). Moreover, these guidelines are not the only factors that a court must consider: this follows from the words "in addition to all other relevant considerations". The meaning of these words cannot be stated with any certainty and will obviously vary according to the particular facts before the court.

In addition, some of the proposed guidelines are, in our view, very broadly worded and their consideration may involve extensive and protracted inquiries. For example, the proposed section 20(2)(b) requires the court to consider any dif-

ference in "the interests" of the child and "the interests" of the society or of a parent of the child. It would appear to us that, to comply with this guideline, a court may well be required to hear evidence that is central to the substantive issue of the proceedings: that is, whether the child is a child in need of protection. The same point may be made with regard to the opening words of the proposed section 20(2)(c): namely, the words "the nature of the proceedings, including the seriousness and complexity of the issues". Further, complex medical evidence may be required to determine the capacity of a child pursuant to the guideline contained in section 20(2)(d).

28. Your Committee is of the opinion that certain fact situations exist wherein a child is placed in particularly hazardous conditions.

In our initial Report, at pages 42-43, we identified certain specific areas that, in this context, could be isolated and that seemed to us to merit careful scrutiny. Your Committee notes that the proposed guidelines contained in section 20(2) make no explicit reference to these specific areas.

29. In light of these comments, the question that remains is whether the advantages that flow from the enshrinement of statutory guidelines are outweighed by the problems of delay and complexity that may thereby result. Your Committee is of the view that the interests of a child require that, in arriving at its opinion as to representation, the court should possess broad and untrammelled powers of inquiry.

In our view, our recommended version of the proposed section 20(1) goes a long way to satisfy this requirement. Nevertheless, we share the view that there should be statutory guidelines. In the opinion of your Committee, however, these guidelines should be more sharply focussed. Moreover, they should include the specific areas that, as mentioned above, we isolated in our initial Report. In addition, while we do not consider that the establishment of a guideline should impose a mandatory duty upon the court to direct legal representation for a child, we are of the view that, where a guideline is established, a court should direct legal representation unless it is satisfied that the interests of the child would otherwise be adequately protected.

30. Accordingly, after careful consideration, we recommend that the proposed section 20(2) be amended in this way:

20(2) In determining whether representation is desirable to protect the interests of the child under section 20(1), where the court is of the opinion that:

(a) there is a difference between the views of the child and the views of the society or of either parent or custodian of the child, and

(i) the society is requesting that the child be removed from his present residence; or

(ii) the society does not propose to return the child to the care of his parent or custodian upon the termination of an agreement entered into under section 25 of this Act or upon the expiration of an order making the child a ward of the society pursuant to paragraph 2 of subsection 1 of section 30;

(b) the child has been apprehended and a parent or custodian of the child cannot be located so as to be present at the initial hearing of proceedings under this Part;

(c) a child who has been taken into care is alleged to be a child upon whom abuse, as defined in section 47(1) of this Act, has been inflicted; or,

(d) an order excluding the child from the hearing is made or is likely to be made under section 33;

> the court shall direct that legal representation be provided for the child, unless, having regard to the views of the child, if any, the court is satisfied that the interests of the child would otherwise be adequately protected.

It will be noted that our recommended section 20(2)(c) refers to the definition of "abuse" that is contained in section 47(1). At present, section 47(1) defines the word "abuse" for the purposes of sections 47, 48, 49, 50 and 51. If our recommendation is accepted, a consequential amendment to section 47(1) will be necessary, so as to include a reference to section 20.

31. Before closing this Part of our Report, your Committee wishes to make two final comments.

First, under the proposed section 20(1), a court may direct that legal representation be provided for a child "at any stage in proceedings under this Part". Sections 32, 37 and 38 of the revised version of Bill 114, contain provisions controlling applications to review supervision orders, society wardship orders and Crown wardship orders, respectively. It seems clear to us that any such application for review would be a proceeding under Part II within the meaning of section 20(1). Should, however, there be any doubt in this regard, section

20(1) should be amended to ensure its application to proceedings under sections 32, 37 and 38; for, in our view, there is the same need for legal representation of a child in proceedings under these sections as there is in proceedings that lead to the making of the initial order.

Secondly, section 43(1), of the revised version of Bill 114, provides as follows:

> 43(1) A decision granting or refusing an order of a court under this Part except a decision made under section 20 or subsection 1 of section 29 in respect of a child may be appealed to the county or district court of the county or district in which the decision was made.

It will be noted that a decision under section 20 is expressly excepted from the right to appeal conferred by this section. Your Committee sees no merit whatsoever in this exception. In our opinion, a decision under section 20 should be subject to appeal. In particular, we consider that section 43(1) should be amended so as to make it clear that, where under section 20 no direction is made for legal representation of a child, an appeal may be launched by the child. Moreover, on such an appeal we are of the clear view that a child should in all cases be provided with legal representation.

Part VI

Implementation of Section 20

32. Should the proposed section 20 be enacted, there will arise obvious problems of implementation. Some mechanism must be established to respond to the direction of the court, pursuant to the proposed section 20, that legal representation be provided for a child.

33. Your Committee in its initial Report, at page 20, noted that where duty counsel do represent children in proceedings under Part II of The Child Welfare Act, there is considerable opinion amongst the Judges of the Provincial Court (Family Division), that such representation "is not on all occasions entirely satisfactory".

We stated that the reasons for this view arise from diverse factors, including the following: duty counsel may not have sufficient time to prepare a case; there may not be sufficient resources available to duty counsel; and, duty counsel may not possess the specialized skills which, in our view, are necessary to ensure a desirable quality of legal representation of children.

34. Your Committee wishes to repeat this concern. This negative comment should not, however, be assessed in isolation. Our observation of legal representation of children has continued since January, 1977. We are well aware that many lawyers, when they represent children, devote much time and energy to their task. We are also fully conscious of the fact that representation of children raises sensitive and complex issues that have presented a relatively new challenge to lawyers. Nevertheless, our view of the need to establish a uniformly high quality of legal representation for children, has been reinforced through discussions subsequent to our initial Report.

35. The proposed section 20 will obviously result in a greater presence of counsel for children in the Provincial Court (Family Division). This increase in legal representation will be reflected throughout all courts in the Province.

36. In the view of your Committee, the critical issue that remains is the formulation of an appropriate method of delivery of legal services to children pursuant to the proposed section 20.

It appears to your Committee that every effort must be made to establish a system of delivery of legal services that recognizes the following factors, namely:

a) the need to endeavour to provide a uniformly high quality of legal representation throughout the Province; and,

b) the need to be responsive to local conditions and circumstances.

It is also apparent to us that any system of delivery of legal services should be capable of efficient administration and effective monitoring.

37. Your Committee has reviewed various possible administrative structures whereby legal services might be provided for children. In our deliberations, we have carefully considered the following alternatives:

a) a delivery system administered through a new office created for this purpose;

b) a delivery system administered through the Provincial Legal Aid Scheme; and,

c) a delivery system administered through the Office of the Official Guardian.

In this context, one factor that we regard as important is the need for central administration and co-ordination.

38. The first alternative, the creation of a new administrative office, does not at this time appear to be warranted. The establishment of such an office would draw off limited funds that might be better spent on other matters; namely, the provision of legal services to children. Furthermore, in our view, there might well arise confusion between the responsibilities of a new administrative office so created and those of the Office of the Official Guardian.

39. The real choice seems to lie between a delivery system administered through the Provincial Legal Aid Scheme and a delivery system administered through the Office of the Official Guardian. After much debate, your Committee is of the view that arguments can be advanced to support either alternative.

40. Upon a review of all material factors, the majority of your Committee is, however, of the view that the Office of the Official Guardian could better be charged with the responsibility for the administration of the proposed section 20. Shortly stated, our views may be summarized in this way:

a) the Office of the Official Guardian has a working familiarity with the issues and practices that obtain in the Provincial Court (Family Division) with respect to proceedings under Part II of The Child Welfare Act;

b) the Office of the Official Guardian has acquired a considerable experience in representing children in diverse contexts;

c) the Office of the Official Guardian is well suited to provide centralized administration and co-ordination;

d) the Office of the Official Guardian is well suited to provide a central source of information and experience to lawyers who are representing children; and,

e) the Office of the Official Guardian has a recognized public mandate to act on behalf of children in the Province.

In the paragraphs below of our Report, we reflect this decision of the majority of your Committee.

41. Your Committee has noted that a critical objective to be attained in the implementation of the proposed section 20 must be to endeavour to provide a uniformly high quality of legal representation. Whatever administrative structure is adopted there will remain the issue of the selection of lawyers.

42. Your Committee has reviewed various possible methods whereby counsel may be selected to represent children. In our deliberations, we have carefully considered the following alternatives, namely:

a) to pre-select lawyers in each judicial district, who will constitute a panel;

b) to permit all lawyers, within each judicial district, to apply to be placed on a panel; and,

c) to permit all lawyers within each judicial district to apply to be placed on a panel, and to limit their appointment to a one-year period, subject to re-appointment.

In the case of each alternative, a condition to membership on a panel would be completion of a prescribed training programme.

43. Your Committee upon a review of all relevant factors, recommends the adoption of alternative c) above. We are of the opinion that all lawyers within each judicial district, ought to be afforded the opportunity to demonstrate their interest and capability in representing children. In this way, recent members of the legal profession, who have yet to establish their competence in this area, would not be denied panel membership.

The condition of re-appointment to a panel, at the end of the initial one-year period, would, however, be based upon the attainment of a satisfactory level of representation.

44. As a matter of general practice, we envisage that lawyers who are enrolled on a panel will be allotted to cases on a rotational basis. We recognize, however, that circumstances may arise wherein this mechanical method may not be appropriate. First, complex and important problems may arise that may demand the service of an experienced and knowledgeable counsel. Secondly, a child may wish to select his or her own counsel. While in all cases counsel representing a child would be a member of a panel, these situations, in our view, would justify a departure from the rotational system.

45. In the view of your Committee, the opportunity of lawyers to be retained to represent children is an opportunity that confers a considerable privilege. With such a privilege goes the responsibility to attain and maintain a high quality of representation. It is for this reason that your Committee recommends that as a condition of being on a panel, lawyers should have to satisfactorily

complete a training programme, and be required to re-attend further programmes as they are presented. In our view, the training programmes should be presented through the Office of the Official Guardian.

46. We are aware that our recommendations will not necessarily produce the uniformly high quality of representation that we regard as necessary. So too, we recognize that the mere completion of a prescribed training programme will not inevitably produce this result. Nevertheless, we believe that a concerned and interested lawyer can derive much benefit from a properly structured training programme.

Further, it is our view that such a programme, linked with the method of selection of counsel that we recommend, can only serve to encourage a general sensitivity and awareness of this issue amongst lawyers.

47. Your Committee recognizes the need to be responsive to local conditions and circumstances in the planning of delivery of legal services to children. In our opinion the successful implementation of the proposed section 20 will require extensive co-operation and support of all parties who have an interest in

proceedings in the Provincial Court (Family Division). In this context, we would in particular stress the importance of providing a child with legal counsel at the earliest possible time.

48. We recommend that there be established in each judicial district a local Committee. In our opinion the composition of this local Committee should include:

a) a Judge of the Provincial Court (Family Division);

b) a member of the practising Bar;

c) a representative of a Children's Aid Society; and,

d) a representative of the Legal Aid Office.

49. The function of each local Committee would be to advise and assist the Office of the Official Guardian in administering the delivery system of legal services to children.

This function would include the following: assisting the Office of the Official Guardian in the implementation and administration of training programmes; monitoring the performance of counsel who represent children; and, advising the Office

of the Official Guardian as to whether or not counsel should be re-appointed to serve on a panel, after the initial period of one year.

50. As is apparent, your Committee envisages the local Committees as exercising important and sensitive advisory functions. While we are firm in our perceived need to be responsive to local conditions and circumstances, we consider that the working operation of the local Committees should be reviewed by the system of evaluation referred to below.

Part VII

Custody and Access Proceedings: The Family Law Reform Act, 1978

51. Under The Family Law Reform Act, 1978, general custody and access jurisdiction is conferred upon the Provincial Court (Family Division). There is, however, no provision respecting custody and access proceedings in the Provincial Court (Family Division) that is comparable to the proposed section 20 of Bill 114.

52. Rule 8 of the Rules of Practice of the Provincial Court (Family Division), O. Reg. 210/78, provides:

> 8 Where a court is satisfied that the interests of a minor or person of unsound mind are involved in a proceeding, the court may give such directions for the representation of the minor or person of unsound mind as the court considers proper.

As will be noted, pursuant to Rule 8, a court may give "such directions" for the representation of a minor as the court considers proper.

53. A majority of your Committee has earlier expressed the view that the Office of the Official Guardian should be charged with the responsibility for the administration of the proposed section 20. So too, your Committee has recommended a method of

selection of lawyers to represent children, and the establishment of local Committees.

We are of the opinion that, whenever practicable, the provision of legal services to children should be afforded in the same manner.

Accordingly, we recommend that the principles that have been previously stated concerning the representation of children in proceedings under the proposed section 20, should apply to custody and access proceedings.

Part VIII

Juvenile Delinquency Proceedings

54. In our initial Report, at pages 21-25, we commented upon the present system of representation of children under the Juvenile Delinquents Act.

55. We stated that, unlike the position in proceedings under Part II of The Child Welfare Act, a child is obviously a party to proceedings under the Juvenile Delinquents Act. As a party to proceedings, the child has the right to instruct counsel and to seek a certificate under the Provincial Legal Aid Scheme.

56. In most courts, it is the practice for duty counsel to appear extensively in juvenile proceedings. Alternatively, a child may obtain a legal aid certificate and instruct counsel from the private Bar.

57. As a result of our inquiries we stated that the majority of Judges of the Provincial Court (Family Division) expressed the opinion that the representation afforded a child by duty counsel at the adjudication stage is satisfactory. There was, however, a strong view expressed by these Judges

that the representation afforded by duty counsel at the disposition stage was not entirely satisfactory.

58. We noted our awareness of the importance of the services presently provided under the Provincial Legal Aid Scheme. We expressed the view, however, that the present practice of providing such service by duty counsel is not entirely satisfactory. The difficulties that seemed to us to exist included difficulties of a systemic nature; that is, there are problems that relate to the access and availability of duty counsel, and to the continuity of service provided by duty counsel.

59. More specifically, difficulties that exist include the following:

a) duty counsel may not have sufficient time to prepare a case;

b) there may not be enough resources available to duty counsel; and,

c) duty counsel may not possess the specialized skills that, in our view, are necessary to ensure a desirable quality of legal representation of children.

The above position is compounded where there is no continuity of service provided; that is, where the same duty counsel does not represent the child at all stages of a proceeding.

60. We would, at this stage, repeat the view that we have previously expressed: that is, the need to establish a uniformly high quality of legal representation for children. Accordingly, we recommend, for reasons mentioned in paragraph 45 above, that lawyers who represent children under the Provincial Legal Aid Scheme in Juvenile Delinquency proceedings, should satisfactorily complete a training programme, and be required to re-attend further programmes as they are presented.

61. It seems to your Committee that the difficulties which we have identified as existing under the Provincial Legal Aid Scheme require further consideration. Accordingly, we recommend that Pilot Projects be established for this purpose. A research design for such Projects is set out in Part 7 of the Schedule appended to this Report.

62. We earlier expressed the view that, whenever practicable, the provision of legal services to children should be afforded in the same manner. We recognize, however, that in relation to proceedings under the Juvenile Delinquents Act, the provision of legal representation to children under the Provincial Legal Aid Scheme is firmly estab-

lished. Accordingly, in our view, any change in the present position should await the results of the Pilot Projects.

Part IX

Monitoring and Evaluation

63. The proposed section 20 of Bill 114 will place new demands upon the system of the administration of justice in the Provincial Courts (Family Division), and upon all parties who are interested in proceedings in these Courts.

64. In our view, it can be anticipated that the practice and procedure of the various Provincial Courts (Family Division) may differ in important respects in the application of the proposed section 20.

65. For these reasons, your Committee recommends that a system be established to monitor and evaluate the operation of the proposed section 20.

66. In our view, the system of monitoring should be designed so as to make available information that includes the following: namely,

a) the nature of the proceeding before the court;

b) the stage of the proceeding when legal representation of a child is first considered;

c) the age of the child;

d) the marital status and domestic situation of the parents;

e) the age and number of other children in the household, if any;

f) whether the present proceeding was the first proceeding involving the child in the Provincial Court (Family Division);

g) whether representation was directed;

h) the stage in the proceeding at which representation was directed; and,

i) whether the Children's Aid Society recommended or opposed representation.

As noted below, information of this nature may be relevant for various purposes.

67. First, we have earlier stressed the importance of providing a child with legal counsel at the earliest possible time. Information provided by a monitoring process may enable circumstances to be prescribed in which a child should be provided with legal representation, prior to a court hearing.

Information so obtained may serve another purpose: namely, the ascertainment of the best possible method of administering the proposed section 20, with a view to encouraging the uniform application of standards.

Thirdly, through the acquisition of information, difficulties in the administration of the proposed section 20 can be noted and amending legislation suggested.

68. Your Committee has stressed that the successful implementation of the proposed section 20 will require the extensive co-operation and support of all parties who have an interest in proceedings in the Provincial Court (Family Division). It seems to your Committee that the proposed section 20 will have an effect on all interested parties with respect to their practices and procedures; their allocation of resources; and, their general administrative demands.

69. Your Committee is of the view that information obtained from any monitoring process, while necessary, is inherently of a crude statistical character. Information of a more sensitive and sophisticated quality may, however, be acquired by an appropriate system of evaluation.

70. In our view, a system of evaluation should be designed so as to make available information

that includes the following:

a) The impact of the proposed section 20 upon the inter-relationship of the Provincial Court (Family Division); the lawyers who appear before that Court; and, the local Children's Aid Society and other analogous agencies.

   It would appear that, subtle or otherwise, changes will result in this inter-relationship. The question that remains is whether any such change will further the interests of the child.

b) The impact of the proposed section 20 on the quality of the decision-making process.

   The assumption behind this proposed section is that the interests of a child will be better served by the presence of counsel; this assumption should be subject to scrutiny.

c) The response of parents, of children, and of other interested parties to the proposed section 20;

d) The working operation of the local Committees; and,

e) The need, or otherwise, for a child to be made a party to proceedings under Part II of the Act.

Information of this nature would be different in quality from that which can be obtained from a monitoring process. It would give greater substance to the statistical data that can be obtained by monitoring. Furthermore, it will

identify problems that a process of monitoring would not reveal. Given information obtained from an appropriate system of evaluation, decisions of principle may be made regarding the future direction of the legal representation of children.

71. In the opinion of your Committee, an evaluation of the kind we have sketched above cannot pragmatically be undertaken throughout the Province. Accordingly, it will be necessary to select particular courts for this purpose.

S C H E D U L E

LEGAL REPRESENTATION OF CHILDREN

IN THE FAMILY COURTS:

A RESEARCH PROPOSAL

LEGAL REPRESENTATION OF CHILDREN

IN THE FAMILY COURTS:

A RESEARCH PROPOSAL

prepared by

Katherine Catton
Child in the City Programme
University of Toronto
June 26, 1978

Index

Index (Cont'd.)

1. THE VIEWS & RECOMMENDATIONS OF THE ATTORNEY GENERAL'S COMMITTEE ON THE REPRESENTATION OF CHILDREN IN THE FAMILY COURTS: THE NEED FOR PILOT PROJECTS - A SUMMARY

In the Report of the Committee on the Representation of Children in the Provincial Court (Family Division) of June 1977, the Committee, after reviewing legal representation of children from the international, national and local perspectives, concluded that "further information and experience was required in order to structure a system whereby a satisfactory level of legal representation may be afforded to a child" (emphasis added, p. 40). The Committee therefore recommended that pilot projects be established to provide this necessary information and experience (p. 40).

The Committee reached their conclusions based on a variety of factors. So far as the Committee could ascertain, a practice, albeit of uncertain dimension, presently exists whereby children are afforded legal representation (p. 28). They noted that, particularly in relation to proceedings under Part II of The Child Welfare Act, there seemed to be no uniform practice across the province (p. 17) in relation to child representation in Part II proceedings. Recent proposed amendments to The Child Welfare Act do not appear to significantly alter this.

After garnering what information they could obtain, the Committee concluded that representation by duty counsel, whether in child protection or delinquency proceedings, was "not on all occasions entirely satisfactory". The Committee stated that:

> This lack of adequacy is...endemic in the present scheme of duty counsel. It arises from diverse factors, including the following, 1)duty counsel may not have time to prepare a case; 2)there may

> not be sufficient resources available to duty counsel; and, 3)duty counsel may not possess the specialized skills which...are necessary to ensure a desirable quality of legal representation of children. The above position is compounded where there is 4)no continuity of service provided; that is, where the same duty counsel does not represent a child in all stages of a proceeding (p. 20, numbering added).

Problems relating to the 5) access and 6) availability of duty counsel were also noted as further difficulties of a systemic nature within the present practice of providing duty counsel (p. 22, numbering added). Finally, additional factors specific to the duty counsel system in proceedings under the Juvenile Deliquents Act were mentioned as further problems. These factors are that 7) duty counsel, on some occasions, does not interview a child separate from his or her parents; and 8) duty counsel, on some occasions, does not have sufficient information as to the alternatives for disposition (p. 24, numbering added).

Because there was general agreement that the "present system", "a practice of uncertain dimension", does not as a whole provide quality legal representation for children (p. 20, p. 22) the Committee recommended that pilot projects be established to accomplish at least the following: 1) to try a number of different methods of providing legal services to children to determine which method was most effective in providing satisfactory legal services (p. 48, p. 40);

2) to document the sources and compare relative merits of the different methods of providing legal representation to children existing in the "present system" (p. 44);

3) to determine in what instances legal representation for

a child is required in child protection proceedings (p. 41); and

4) to determine the appropriate skills and training that should be possessed by lawyers representing children (p. 44).

The Committee later expanded its terms of reference to include legal representation for children in Provincial Court custody hearings under The Family Law Reform Act, 1978.

2. THE PRESENT SYSTEM OF REPRESENTING CHILDREN IN PROCEEDINGS IN THE PROVINCIAL COURTS (FAMILY DIVISION) IN ONTARIO

In Ontario, there is no uniform or consistently defined "present system" of providing children with legal representation in Family Court proceedings. Legal services are usually provided under the aegis of two agencies - Legal Aid and the Official Guardian. But within these two administrative structures, a variety of methods of providing legal services are used. The following diagram illustrates at least three possible methods of providing legal services within the two agencies. No doubt a range of other possible delivery methods are being or could be used.

	Delivery Method		
Administrative Structure	Private Lawyer on Contract to Handle Case to Completion	One-Time Screening and Referral Lawyer: Duty Counsel	Full-Time, Agency Employed Lawyer: Represents Cases As Required
Legal Aid	✓ Legal Aid Certificate Lawyer	✓	
Official Guardian	Private Contract Lawyer ✓		✓

Moreover, the meaning of "legal representation", the role the lawyer is asked to fulfill, and the person determining the need for representation may also vary depending on the administrative structure and the type of proceedings.

When approached by the type of proceeding, that is, delinquency, child protection or custody, the present system includes at least the following:

a) Delinquency:

"Duty Counsel" are lawyers provided by legal aid who are assigned in a rotating manner, one per court on any given day, to provide one-time legal assistance. Duty counsel's duties include advising an accused of his rights and taking such steps as the circumstances require to protect the accused's rights, including representing him on a plea of guilty and making representations with respect to sentence where a plea of guilty is entered.

Duty counsel usually appears on the child's behalf in first hearings in delinquency proceedings although the child can decline his services and appear without a lawyer or appear with a privately retained lawyer. The services provided by duty counsel are essentially screening and referral services and not legal representation. Hence, it has been held in adult proceedings that representation by duty counsel at the first hearing cannot be equated with legal representation by privately retained counsel. (R. V. Butler (1973) 11 C.C.C. (2d) 381 (Ont. C.A.)). This argument equally holds true for delinquency proceedings.

When, on a "guilty" plea, a further hearing is set for a later date, the duty counsel serving the court in which the child is to appear on that later day (almost invariably a different lawyer from the duty counsel at the first hearing) may speak on the child's behalf, or

the child may secure a private lawyer or a law student to speak on his behalf.

Where there is a trial on a "not guilty" plea, the child cannot be represented by a duty counsel, and cannot be represented by the lawyer who originally acted as duty counsel at the child's first hearing even though this lawyer would now be appearing as a member of the private bar. Instead, the child can either proceed at trial without representation or with a private lawyer (other than his original duty counsel) retained with or without a legal aid certificate, or a law student. A privately retained lawyer will usually represent the child through to the completion of his case.

There is much disagreement, both in the literature and in practice about what role the lawyer should perform at the different stages of the delinquency proceeding. At least three possibilities exist - strict adversarial, amicus, and guardian.

There is no representation by lawyers from the Official Guardian's Office in delinquency proceedings.

b) Child Protection:

In child protection hearings, the parents may retain a private lawyer for the child with or without a legal aid certificate. Or the lawyer representing the parents, at the parents' request, may also speak for the child. Further, either the Judge or the Children's Aid Society may request either a member of the private bar or the

Official Guardian to act on the child's behalf. The Official Guardian representative may be a lawyer who is employed full time by this office or he may be a member of the private bar acting on a case-by-case contract basis for the Official Guardian. Finally, some Judges have established panels of private lawyers to act as "duty counsel" speaking on the child's behalf in protection matters.

Proposed amendments to The Child Welfare Act will allow the Judge to appoint a lawyer for the child. The amendments specifically set out a variety of factors the court must consider in making this decision. Here again the question of the lawyer's proper role arises.

c) Custody:

There is no "present system" yet established in Family Court custody proceedings although it would seem likely that most legal representation of children would be done by privately retained lawyers or by judicial appointment of counsel, probably an Official Guardian representative (see Regulation, The Family Law Reform Act, 1978).

In sum the "present system" of providing legal services to children could be described as a hodge-podge wherein the mode of delivery, the administrative agency, the meaning of "representation", the role the lawyer is asked to fill, and the person determining the need for representation all vary in an unsystematic, even uncertain, fashion.

3. REPORTED EMPIRICAL RESEARCH ON THE LEGAL REPRESENTATION OF CHILDREN IN DELINQUENCY PROCEEDINGS

A review of the reported research reveals no empirical studies of legal representation for children in either child welfare or custody hearings. This section is therefore limited to research pertaining to representation in delinquency proceedings.

a) The Inadequacies of the Duty Counsel System:

If duty counsel is viewed as a means of providing children with legal representation, as opposed to merely a system of screening and referral, the inadequacy of this system has been well documented, the most recent research having been completed by Wilks et al. of the Toronto Family Court Clinic in the fall of 1977. The Attorney General's Committee observed in their Report that the majority of Judges of the Provincial Courts (Family Division) thought that representation afforded by duty counsel in delinquency hearings was satisfactory in the adjudication phase (p. 22). This opinion deviates markedly from the perceptions of the children involved in such hearings, and from that of their parents. Recent research by Wilks et al. confirms earlier Ontario research by Catton and Erickson (1975) which found that, both before and during the hearing, relatively few children or parents had any idea who duty counsel was, what he was supposed to do, or what his relationship to them and the court was. Those interviewed seldom knew that he was a lawyer there to aid and instruct them. Similarly Langley et al.'s (1978) data also indicate that prior to the court hearing, most youths

had no clear understanding of what to expect in the court process.

Catton and Erickson's (1975) study indicated that representation by duty counsel was far from adequate. Although some individuals performed a meaningful role, this appeared to be more a function of personality than legal training. In their sample, many children had no idea who duty counsel was, or that he was a lawyer who was supposed to represent them. Duty counsel often had trouble communicating with the child and consequently often directed his questions to the parents, sometimes to the total exclusion of the child. During the actual hearing, duty counsel usually took no active part, even when confusion arose or clear breaches of the rules of evidence occured. It seems anomalous that judges see duty counsel as adequately representing children at adjudication when the children frequently have no idea who this person is or what he is doing in court.

Moreover, the Committee Report indicated that the Judges strongly felt that "representation afforded by duty counsel at the disposition stage was not entirely satisfactory" (p. 22). This perception is generally supported by the research data. However, Wilks' and her colleagues preliminary findings suggest that if duty counsel speaks at all at disposition, this helps the child and his parents begin to have some understanding of duty counsel and his role.

In sum, all three studies generally support the view that the present duty counsel system does not provide quality "legal representation" for children.

b) The Role of the Lawyer in Delinquency Proceedings:

Judicial and legislative activity in Ontario has reflected the general upsurge in concern over legal representation for children.

Hence, the issue today is not so much whether to provide children with legal representation but rather how to ensure that children obtain representation which is both timely and effective. Central to this issue is the question of what role the lawyer should assume. Should he act in his traditional adversary role as an advocate for the child's view, assuming he can determine what the child's views are? Should he modify his role to that of an amicus curiae, assisting the court by bringing to its attention matters that might otherwise be overlooked? Or should he act as the child's guardian, advocating the decision he sees as being in the child's best interests? Again, a very small body of reported research addresses this question.

Both the child's ability to instruct counsel and the philosophy and procedural structure of the court in which the lawyer acts may affect duty counsel's final role definition. A series of studies provide clues as to why duty counsel is so ineffective in delinquency hearings. Based on their research in delinquency hearings, Dootjes, Erickson and Fox (1972) reported that lawyers representing children in these hearings were under many pressures from the different participants in the hearing to perform diametrically opposing roles in court. These researchers found that the lawyers's training as an advocate conflicted with the informal, social service orientation of the juvenile court. This conflict created pressure on counsel to assume a less adversarial stance or even modify his role into that of a social worker. Erickson (1974) found that judges and social workers had contradictory expectations about the function the lawyer should fulfill. Some judges and social workers indicated that he should act in a highly legalistic manner;

others insisted that he should do whatever is "best" for the child.

Stapleton and Teitelbaum (1972) obtained similar results in their American study. They observed that lawyers themselves varied in their preferred orientation toward representing juveniles. Further, the role counsel was able to assume depended, to a large degree, on whether the court itself was legalistic or informal in its orientation. Finally, their data indicated that while the adversarial approach was highly successful in obtaining discharges in a "legalistic" court, in an informal, "family model", service-oriented court, the adversarial approach led to an increase in conviction rates.

A further source of confusion for duty counsel in the juvenile court is the lack of a clearly defined prosecutor. In another study, Erickson (1975) found that almost every other participant in the hearing except the child appears to function in this role at some time. Nothing in the lawyer's training prepares him to deal with such vaguely defined and often contradictory role expectations.

In view of the increase in legal representation for children and its often questionable quality, the question of how to provide children with timely and effective legal services has become critical. Yet no reported research has explored this problem. The pilot projects, to be described in the next section, were designed to address the issue.

4. THE PROPOSED PILOT PROJECTS

The small amount of empirical research just reviewed supports the conclusions of the Attorney General's Committee that the present practice of representation by duty counsel is not entirely satifactory. No data exist on the present "uncertain" practice of providing representation in child protection hearings from which to draw any conclusions about its adequacy.

The Committee was, therefore, desirous of establishing pilot projects:

1) to determine, among other things, what methods could be utilized to provide effective quality legal services to children and suggested that new delivery methods be tried (p. 48);

2) to attempt to assess the relative merits of the different existing methods of providing children with legal representation (p. 44);

3) to assess the appropriate skills and training child representatives require (p. 44); and

4) to determine in what circumstances children in child protection proceedings require legal representation (p. 41).

The Committee specifically stated that the performance of the proposed pilot projects be evaluated (p. 46). Since the first step in any evaluation is the formulation of specific program goals, the above Committee recommendations were translated into three specific, researchable goals.

a) Goals the Pilot Projects Seek to Achieve:

The pilot projects are designed

1) to determine which system of providing children with legal representation has the greatest positive effect on the overall court system (including the system itself and those participants involved in the system);

2) to determine which system of providing children with legal representation is most effective in terms of delivering quality and timely legal services (perceived and actual) to children; and

3) to determine which system of providing children with legal representation is most effective in screening out those cases where representation is needed in child protection and custody proceedings

b) The Dimensions Selected as the Most Likely to Achieve the Goals:

After thoroughly canvassing the complete range of factors, the Committee selected the following four dimensions as those most likely to be related to the attainment of the project goals:

1) mode of providing representation - the delivery system deals with the questions of access to, and continuity of representation, as well as the effectiveness of training, (e.g., duty counsel, duty counsel with training, full-time lawyer, part-time lawyer);

2) administrative structure overseeing the delivery system, (e.g., central control, local control);

3) special training for lawyers representing children (e.g., training or no training; type of training); and

4) type of hearing (e.g., delinquency, child welfare, custody).

Not all factors which might possibly affect the achievement of the project goals could be systematically varied or else the number of pilot projects would become unmanageable (assuming only one "condition", that is, one combination of variables, can occur in one court). Therefore, working on the assumption that it is far more productive to focus on a few relevant variables than to go on a wide range fishing expedition (Weiss, p. 47), the above-named four dimensions were chosen as those factors

a) which appeared most likely to affect the attainment of the goals, and

b) which closely approximated reforms which could potentially be implemented across the province.

c) The Factors to be Held Constant:

The other factors will not be systematically varied. Instead, attempts will be made to equate these factors as much as possible so that any differences in these factors will be minimized. Otherwise it will be difficult to determine if differences in the data gathered reflect variability in these dimensions or the four dimensions under study. Such ambiguity could limit the interpretation of the data and hence the usefulness of the evaluation.

Therefore, for each of the following dimensions, a decision is to be made on which alternative to implement and then this is to be held constant (insofar as is possible) in each pilot project location. Thus while not serving as the main focus of the research, where possible, data relevant to these variables will be gathered to enhance the overall utility of the research.

The following factors were considered:

1) location of the courts (e.g., urban, rural);

2) role which the lawyer would assume (e.g., advocate, amicus, guardian, modification of one of these three);

3) the possibility of screening to determine the need for representation and the nature of any screening mechanism so used (e.g., screening or no screening); (type of screening);

4) the location of the offices of legal representatives (e.g., located within or outside the court building);

5) the nature of the support services (e.g., implement special support services or not).

The decisions made on each of these factors will be spelled out in detail in the Committee Report #2.

d) The Delivery Systems:

Four delivery systems form the focus of this research. Two new delivery systems, labelled full-time and part-time, were chosen, based on an in-depth review of systems of delivering legal representation to children operative in other jurisdictions* as well as current proposals for representation found in the scholarly literature.** These two new systems were considered to be the innovations most likely to achieve the goals of representation as expressed in section 4a. These new delivery systems are to be compared with the "present system", as described in section 2 of this proposal. Finally, the Committee wished to evaluate the effectiveness of the present system when a specific

---

* see Background Paper prepared by K. Catton

** see Jeffrey S. Leon, Legal Representation of Children in Selected Court Proceedings (Child in the City Programme, Working Paper #1, University of Toronto, 1978).

attempt is made to improve it by training these lawyers in the same way as in the two new delivery systems, for example, in the relevant law, in how to communicate with children, in the range of support services available, and the like. This delivery system, labelled "present system with training", forms the fourth delivery system to be evaluated. Each of the delivery systems is to be placed in a one-judge court and will be evaluated in all three types of family court hearings involving children, that is, delinquency, child protection and custody hearings.

While a detailed description of the two new modes of delivery will be presented in the Committee Report #2, a brief description of their key features will be presented here.

1. Delivery System #1: Full-time Representatives

    1. Legal services are to be provided by lawyers working full-time handling all legal representation of children in a family court except where representation is declined, where the child proceeds with privately retained counsel, or in child protection and custody matters, where it is determined not necessary by the screening body.
    2. A lawyer will be assigned to the child's case automatically and is under an onus to contact and meet with the child sufficiently in advance of the date of the hearing to be prepared to proceed on that date.
    3. The same lawyer will handle the matter through to completion.
    4. These lawyers will receive special training.

2. Delivery System #2: Part-time Representatives

1. Legal services are to be provided by a small panel of lawyers who will spend approximately 10-20% of their time representing children and the remainder of their time in private practice. The panel would consist of approximately 10 to 20 lawyers handling all the legal representation of children in a family court except where representation is declined, where the child proceeds with privately retained counsel, or in child protection and custody matters, where it is determined not necessary by the screening body. A panel lawyer, once assigned to the case would, as nearly as possible, perform his function as if he had been privately retained.
2. A lawyer will be assigned to the child's case automatically and is under an onus to contact and meet with the child sufficiently in advance of the date of hearing to be prepared to proceed on that date.
3. The same lawyer will handle the matter through to completion.
4. The lawyers will receive special training.

Thus the two new delivery systems to be tested in two separate courts are 1) full-time representatives and 2) part-time representatives. These will then be compare with 3) an "improved" version of the present system, that is, "present system with training" and 4) the "present system without training", using two more courts. Note that the two new delivery systems will be administered under two different structures. First, they will be administered under "central control" and then under "local control". See the Committee Report #2 for the exact definitions and functions of the two forms of adminstrative structure to be employed.

3. Delivery System #3: Present System with Training

The Committee expressed a desire to attempt to improve the "present system" and then compare this "improved" system with the two new delivery systems being tested to see whether or not the "present system" could be made more effective in seeking to achieve the project goals (see section 4a). As noted, special training was selected as the method of trying to improve the "present system". To this end, the Committee proposes to give special training to lawyers in the "present system", similar to the training given the lawyers in the two new delivery systems to be tested, and then compare the "present system with training" to the "full-time" and "panel" systems, as well as to the "present system" without training in terms of the goals sought. Thus, a third court will be used to test the effectiveness of adding training to the present system. The precise definition and means of implementation of the "present system with training" will be spelled out in detail in the Committee Report.

4. Delivery System #4: Present System without Training: The Control Centre

To determine whether or not either of these two new delivery systems or training lawyers in the present system results in an improvement over the "present system without training" in achieving the goals, a comparison will be made with the "present system" of legal representation for children in family courts. This will be done by including another court (Court 4) in the study in which an evaluation will be made of the present system as a unit, examining the nature, extent and quality of the

representation which occurs when no modifications are made in this system.

Moreover, an attempt will be made to document the sources and assess the relative merits of the different methods of providing legal representation to children in the "present system with training" and the "present system without training", that is, duty counsel, legal aid certificate, full-time or contract Official Guardian lawyer, law students et cetera.

Note that the administrative structure of the "Present System with Training" and "Present System without Training" will remain as is. No attempt will be made to compare "central control" with "local control" in these two delivery systems.

5. EVALUATION OF THE PILOT PROJECTS

a) Introduction

Evaluation research is a method of assessment which attempts to make the process of judgement both accurate and effective. It provides a basis for further planning and program refinement. While an evaluation study cannot come up with final and unequivocal findings about the worth of a program, it can assist decisionmaking by providing data on program effectiveness which can

> reduce uncertainties and clarify the losses that different decisions incur. In this way, it allows decision-makers to apply their values and preferences more accurately, with better knowledge of the trade-offs that alternative decisions involve. (Weiss, p. 4).

The Committee wished to have an evaluation to compare the relative effectiveness of the four different modes of delivery in delinquency, child welfare and custody hearings. For this reason, a detailed research design and methodology was developed which will permit systematic comparisons to be made on the effects of different methods of delivering legal services to children.

b) The Hypotheses to be Tested

The first step in any evaluation is to formulate program goals (see section 4a). The goals must then be translated into clear, specific, unambiguous and measureable terms. To this end, the goals

were broken down into a number of working hypotheses.

The specific hypotheses are grouped into two major categories.

i) Hypotheses related to the effects of the delivery system on the overall court system in delinquency, child protection and custody proceedings.

It is predicted that the different systems of delivering legal representation to children will differentially affect

1. the number of cases brought to court;
2. the number of court and non-court referrals to service agencies;
3. the types of cases brought to court;
4. the types of plea or opposition to CAS or custody applications;
5. the total time from first hearing to case completion;
6. the total time spent in court;
7. the number of adjournments;
8. the reasons for adjournments;
9. the average length of individual hearing;
10. the average time between adjournments;
11. the case outcomes;
12. the nature of the hearing (formal vs. informal etc.);
13. the number of charges/applications withdrawn prior to first hearing and during the course of the hearing;
14. the number of times judges appoint lawyers to act on child's behalf during the course of the hearing;

15. the number of cases where parent(s) have their own lawyer;
16. the number of cases where lawyer is acting as prosecutor or applicant;
17. the number of cases where lawyer is acting on child's behalf from first hearing and what source/agency this lawyer is from;
18. the number of different lawyers acting on child's behalf from first hearing to completion.

ii) Hypotheses related to the effects of the delivery system on the participants' knowledge of, understanding of, and satisfaction with the court process:

There are six major categories of participants in the three types of hearings of concern here. They are 1) the child, 2) the lawyer, 3) the judge, 4) the "prosecutor" or applicant, 5) the parents and 6) the social worker or agency involved. Depending on the type of hearing, for example child protection, the categories may overlap and modifications may therefore be necessary, but generally these six categories cover the range of participants.

It is predicted that the different systems of delivering legal representation to children will differentially affect

1. the participants' knowledge of and understanding of the process especially with respect to
   a) the role and purpose of the participants
   b) the relevant procedural and substantive law (including rights)
   c) the nature and purpose of the hearing

d) the possible consequences of the hearing;

2. the participants' perceived and actual willingness and ability to fully participate in the hearing;
3. the participants' perceived and actual willingness and ability to influence the outcome of the hearing;
4. the participants' understanding of the issues before the court;
5. the participants' feelings about the completeness of the evidence and the clarity with which it is presented;
6. the participants' view about the degree of procedural regularity and protection of rights;
7. the participants' satisfaction with the quality of the legal representation provided (where applicable);
8. the participants' view about the availability of dispositional alternatives;
9. the participants' confidence in the appropriateness of the process and the outcome;
10. the participants' sense of justice toward the process and other participants (i.e., satisfaction with having been treated fairly);
11. the participants' willingness to cooperate with the other participants (prior to, during and following the proceedings);
12. feelings of alienation or polarization towards the process and other participants;
13. the degree of and satisfaction with the lawyer-child communication;

14. the child's or parents' anti-social or mal-adaptive behaviour (where applicable).

c) The Research Methodology

The methodology for implementing the evaluation of the pilot projects is divided into a number of separate sections which will be discussed under the following headings:

1. The Research Design
2. Selection of the Test Centres
3. Assignment of Delivery Systems to Test Centres
4. Pre-tests
5. Procedures for Data Collection
6. Sampling
7. Data Analysis

1. The Research Design:

The aim of the research design is to identify, and control for, plausible interpretations that rival the delivery systems as explanations of any change that occurs in the court system or in participants' knowledge, understanding and satisfaction.

While true experiments form the optimal research design strategy, these are usually not feasible when conducting research in natural settings. The essential feature of a true experiment would be the random assignment of individual cases to different delivery systems. But this is not possible here. Therefore, a non-equivalent control group, quasi-experimental research design is to be employed, as described by Campbell and Stanley (p. 47). For our purposes, this involves the use of three groups where the reforms in the delivery systems (described in section 4d) will be implemented, and a comparison control group. This design is used because the comparison group (court) and the reform groups

(courts) do not have "sampling" equivalence, which could only be attained through random sampling from the entire court population. Rather, the groups (courts) constitute naturally assembled collectives as similar as availability permits but not so similar that one can dispense with a pretest. Thus for all groups, measures will be made before delivery system changes are implemented and then these same measures will be repeated after the delivery changes are implemented.

Two major questions are of concern in any social science research - those involving internal and external validity. Internal validity is the basic minimum without which any experiment is uninterpretable. It is concerned with whether the experimental treatments (in this case the different modes of delivery and administrative structures) in fact account for any changes which may be observed. If there are differences in outcomes between the experimental groups and the control group, one wants to know whether these differences can be explained by the delivery systems or administrative structures or whether they can be explained equally well by other factors, such as initial differences among the courts. To maximize internal validity, two techniques are employed in this research design. First, a pretest and postest will be used. In this way, within any one of the three courts where reforms in the delivery system occur, one can compare outcomes after the reform is implemented with the outcomes which obtained before the reform is implemented to know whether, within any given court, any change occurs after the reform has been implemented. This pretest allows one to learn of pre-existing differences among the courts which, if unknown, could lead to differences after the reforms were implemented

which would then wrongly be attributed to the reform rather than the initial difference.

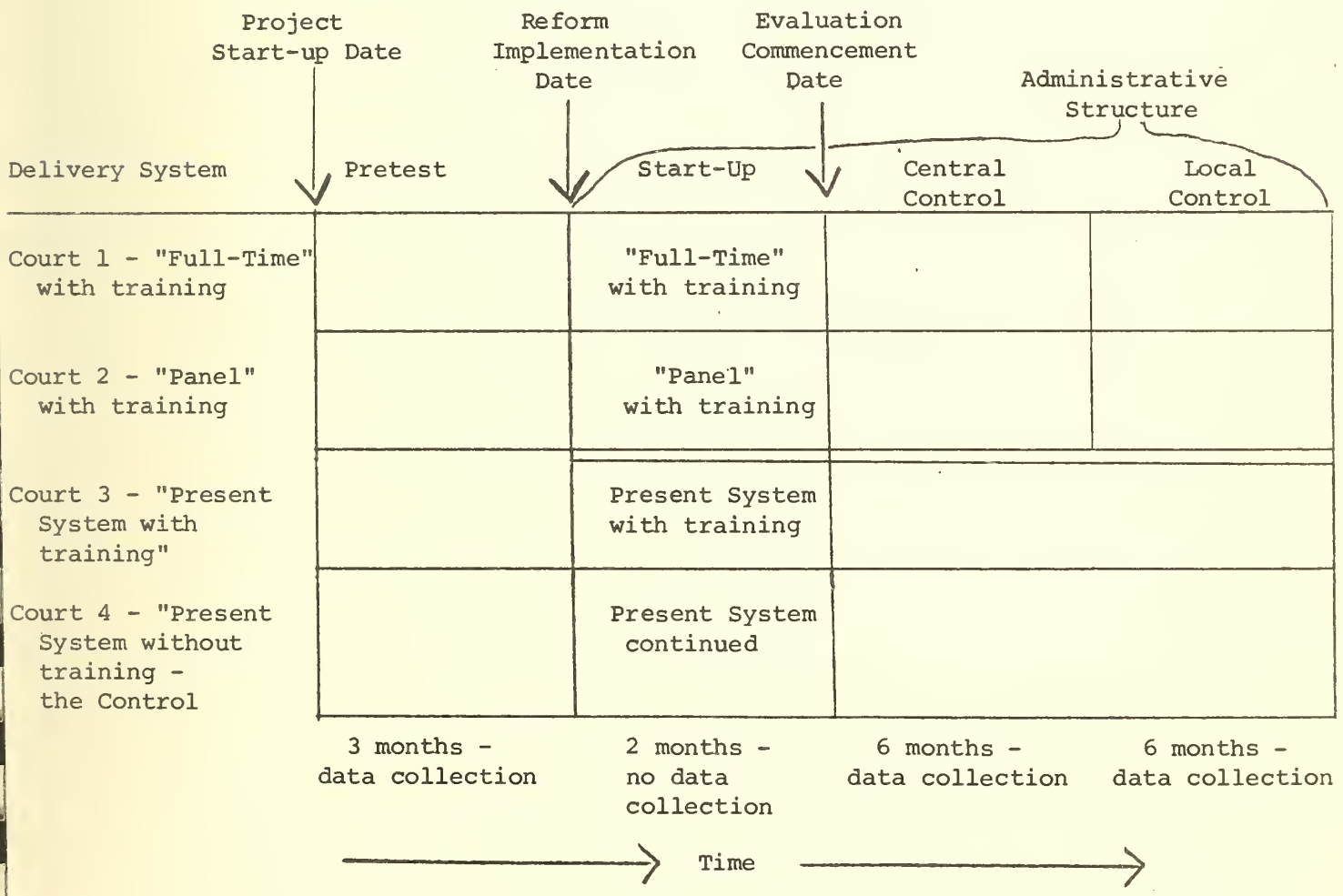
In addition a separate comparison or control group (court) where no delivery system reform is implemented will be used to further enhance internal validity. This comparison group allows the researcher to learn of effects which result from extraneous factors which occur at the same time as the reforms but are independent of them, such as a coincidental historical occurence (e.g., a news story) or carry over effects from the premeasurement and the like.

The addition of the non-equivalent control group greatly reduces the equivocality of data interpretation (Campbell & Stanley, p. 47) and the more similar the control group is, as established by selection criteria and as confirmed by pretest scores, the more effective it will be as a control. For purposes of internal validity, this non-equivalent control group design controls for the main effects of history (e.g., a news story), maturation (e.g., changes in experience of the courts), testing, and instrumentation (e.g., changes resulting from the increased experience of the observers).

External validity is concerned with the question of generalizability; that is to what extent can the effects observed in each of these delivery systems be expected to occur in other locations and to what extent is the sample of delinquency, child protection and custody cases included in the study representative of all such cases coming before the Provincial Courts (Family Division). To maximize the external validity, the cases coming before each court will be sampled randomly.

Summary of Research Design

Thus, in total, four different research settings will be used to study four different delivery systems in three different types of hearings. For the two new delivery systems, the administrative structure will be changed at the half-way point. No alteration will be made of the administrative structure in Courts 3 and 4. The following diagram summarizes the research design to be employed:



It is recognized that this design does not provide a definitive test of the effects of administrative structure in that

administrative structure is confounded with the length of time that the two new delivery systems have been in effect. That is, one would expect that each delivery system would come to function more effectively with the passage of time and hence, that the new delivery systems will appear to be more effective when operating under local control, although this may be due solely to improvement through mere passage of time rather than attributable to the effects of the different administrative structures. This weakness in the design must be taken into account when interpreting the data. Since eliminating this difficulty would necessitate the use of two more research settings, an extremely costly procedure, it was decided to proceed with the design as is.

2. Selection of the Test Centres:

To make meaningful comparisons among the data obtained from the four different centres after the delivery system reforms are implemented, one needs to know that the results are not due to pre-existing differences among the courts selected in factors such as 1) court outlook, 2) size and nature of the locales, 3) size and nature of the caseloads, 4) clients, or 5) the extent or nature of the support services available and used (i.e., court clinics, youth bureaus, student legal aid societies, etc.). For this reason, one should attempt to select test centres which are as similar as possible in terms of variables like those mentioned above. Then when delivery system changes are implemented and different results are obtained, one can have more confidence that these results are attributable to differences in the delivery systems and are not attributable to pre-existing differences among the courts.

Since the majority of children in the province live in urban or suburban areas, it was decided that courts serving this type of area would be the focus of the study. Further, since a large proportion of children processed through the courts live in or near urban or suburban Toronto, the Committee decided that initially, it would focus its court selection effort there and then move farther afield as the need arose. It was also decided that the Provincial Courts (Family Division) at 311 Jarvis Street, because of its unique nature, would not be included in the study.

To determine the similarity among caseloads and clients served by family courts in and around Toronto, information was requested from the Metropolitan Toronto Youth Bureau, and the Peel, York and Durham Regional Police Forces. Similar client and caseload information was solicited from the various Family and Children's Services and Children's Aid Societies, from the Child Welfare Branch of COMSOC, from the courts themselves and from statistics kept by the Office of the Chief Judge of the Provincial Courts (Family Division) and by the Ministry of the Attorney General. Some avenues of inquiry proved highly successful, others less than successful. These data (or lack thereof) were combined with the administrative considerations to be outlined in the Committee's Report #2 in finally selecting the test centres where the pilot projects would be implemented.

3. Assignment of Delivery Systems to Test Centres:

In the end, it was decided to implement the projects in the four courts located at the North York and Scarborough Provincial Courts (Family Division) - one new delivery system and one "present system"

being alloted to each of the two physical locations.

By random allotment, the full-time system was paired with the present with training (pair #1) and the part-time system was paired with present without training (pair #2). The pairs of systems of delivery were then randomly assigned to the pairs of courts with the result that...(see the Committee's Report #2).

It was further decided that the two systems of representation within the two courts at each of the locations would be switched at the half way point. While this further confounds the administrative structure dimension, it has the advantage of permitting each delivery system to be tested in two different court settings.

4. Pre-tests:

During the three month pre-test period, exactly the same measures, as far as is possible, will be used in each of the four courts as are used in the project evaluation undertaken after the reforms are implemented. The pre-test will allow a comparison to be made among the four courts to see how similar they are initially in terms of the outcome measures being monitored. Secondly, through the use of a pre-test, each court can serve as its own baseline for comparing any changes that occur within that court as a result of the change in the delivery system.

5. Procedures for Data Collection:

This section will describe the data collection procedures to be followed in each of the four centres. The aim is to collect information which indicates the extent to which each of the four systems of delivering legal representation under study achieves the goals set out in section 4a. It is hoped that each of the three modifications in

the delivery system, that is, the full-time, panel and present-with-training systems, will result in observable positive changes in the perceptions, attitudes, understanding and behaviour of all participants in the hearing, as well as increased effectiveness and efficiency in the overall court system when compared with the present system operative in the province, as represented by Condition 4.

Measures will therefore be developed to determine:

1) how each of these four delivery systems is being operationalized;
2) how each of these four delivery systems affects the nature and efficiency of the court process in delinquency, child welfare and custody hearings;
3) how each of these four delivery systems affects the various persons being served;
4) if there are any unexpected or unintended consequences of the reforms.

1) Measures of how each of the four delivery systems is operationalized:

Indicators are to be developed to measure how each of the different delivery systems actually operates so that each can be accurately described and defined. Systematic information will be collected to find out what is actually taking place in each of the four delivery systems. Without an accurate description of how each of the four systems function, one cannot know to what to attribute observed outcomes. To this end, a self report monitor sheet of lawyer activities for <u>every case</u> handled will be developed.

2) Measures of how each of the four delivery systems affects the nature and efficiency of the court process:

In each of the three types of proceedings, a limited amount of information will be gathered on every case going through the court system in an attempt to monitor the nature and efficiency of the overall court process under each different delivery system.

3) Measures of how each of the four delivery systems affects the persons involved in the process:

The effects of the different delivery systems on the participants in the three types of proceedings will be another focus of the study. The participants of concern are as follows: the child, lawyer, parents, judge, social worker, and applicant or prosecutor (crown or youth bureau). Interview schedules and questionnaires will be developed to test the hypotheses set out in section 5b.

Using a random sampling procedure, a number of cases will be followed through to "completion" (to be defined), whether this requires only one hearing or several. Where there is more than one hearing, there are a number of possible stages where interviews might be conducted. The following schedule of interviews to be conducted for each case seeks to minimize the number of interviews required (and hence manpower to conduct them) while ensuring that all relevant information is obtained.

i) Prior to the First Hearing

Since the project is concerned with the effects of the legal representation provided to children in each of the four systems, the child, where present, will be interviewed prior to the hearing to tap his pre-hearing knowledge, understanding, attitudes and expectations.

No other participants will be interviewed prior to the hearing.

ii) During the First Hearing

An observation schedule will be developed to monitor in-court activities. This will focus on the procedures followed, the issues raised, the decisions made, and the lawyer's and child's in-court behaviour.

iii) Following the First Hearing

Following the first hearing, an attempt will be made to solicit the views of all the major participants who were present at the hearing. This is necessary to determine how each of the four systems of representation differentially affects each of these participants. In those cases where there is only one hearing to completion of the case, obviously only one set of interviews will be conducted. These interviews must therefore be designed to canvas, as far as possible, all variables relevant to the goals. Where there is more than one hearing to completion, the interviews will be directed toward assessing the initial impact on the participants of the court experience and legal representation when present.

iv) Hearings Beyond the First Hearing

All hearings to completion of the case will be observed and observations of the in-court activities will be recorded for each hearing. It is necessary to observe each hearing so that the participants' views can be interpreted in light of what actually happens in court and so that the observer will be present when final disposition occurs, as well as to keep track of the nature and extent of the lawyer's (when present) and others' in-court activities

and reactions. Observations will be recorded immediately and, to the extent that they can be readily classified, will be coded immediately.

v) Following the "Completion"

In those cases where there is more than one hearing, two discrete sets of post-hearing interviews will be conducted: one following the first hearing and the other following the final disposition (to be defined). It is considered necessary to re-interview the key participants who are present at the final disposition to tap their understanding and attitudes towards the legal representation (when provided), the judicial process and the final disposition, and to see if, and if so how, their perceptions and understanding change over the course of the hearings.

The following diagram illustrates the observation and interview schedule to be followed.

Schedule of Activities for Each Case

A. CASES WITH ONLY ONE HEARING

Prior to Hearing	At Hearing	After Hearing
Interview child	Observe/Record	Interview -child -lawyer -judge -parent(s) -social worker -prosecutor/ applicant

If one hearing only - total interviews = 7
- total observations = 1

B. CASES WITH MORE THAN ONE HEARING

Prior to First Hearing	First Hearing	After First Hearing
Interview child	Observe/Record	Interview -child -lawyer -judge -parent(s) -applicant CAS in CW hearings Total = 6 interviews
Prior to Other Hearings	**Other Hearings**	**After Other Hearings**
No interviews	Observe/Record	No interviews
Prior to Final Hearing	**Final Hearing**	**After Final Hearing**
No interviews	Observe/Record	Interview -child -lawyer -judge -parent(s) -social worker -prosecutor/ applicant Total = 6 interviews

If more than one hearing - total interviews = 13
- total observations = # of hearings

4) Unanticipated or Unintended Consequences of the Different Delivery Systems:

An attempt will be made to identify and keep track of the range of likely outcomes, good and bad, that could flow from the differences in delivery system or administrative structure. Informal, subjective observation may be sufficient to monitor unplanned effects. If important unplanned effects appear, however, precise measures may have to be devised to monitor these.

6. Sampling:

To monitor the effects of the different delivery systems on the participants and on the individual cases as they progress through the court system, it is necessary to follow a sample of cases through from start to completion, rather than sampling only individual hearings before the court on a given day. Only by following cases through to completion can variables such as 1) total time spent in court, 2) amount and nature of the lawyer's participation, 3) number of adjournments and reasons for them, et cetera be accurately monitored. Further, where there is more than one hearing before final disposition, one can only interview participants immediately following the final disposition by following the case through to completion. Thirdly, the various participants' understanding of the views of the process generally and of legal representation specifically, may change radically as the case progresses through the system. For these reasons a "case" is defined for sampling purposes as one which is followed through from first hearing to completion.

In each separate court, cases will be randomly chosen from among the first appearances on the court lists on any given day. Once a case is chosen, the observer will return to observe every hearing connected with that case until final disposition occurs. The aim will be to observe N cases per day. Under optimal circumstances, observers may be able to record data on up to four or five cases per day, although it is more likely that only two or three cases per day can be sampled. If the observer is already following one or more cases and these have hearings scheduled for a given day, then the number of new cases which can be commenced will have to be reduced accordingly. If observers attempt to record data on N cases per day, then the aim on any given

day is to record data on (N - (# of ongoing cases)) new cases per day.

In each of the four courts, cases will be randomly sampled from all first appearances coming before the court, whether they proceed with counsel from one of the delivery systems, with privately retained counsel or with no legal representation at all for the child, and whether or not the child is present at the proceeding.

To look only at those cases proceeding with legal representation in each of the four delivery systems raises serious problems of group comparability which cannot adequately be resolved through available statistical techniques. The more conservative, but statistically acceptable approach is to maintain the reform and control groups intact - that is, to compare the total of each reform group (including cases that proceed with and without representation) with the total control group (including those who proceed with and without representation).

Obviously any error flowing from this sort of analysis will be in the direction of asserting that there are no differences between the groups when in fact differences exist. Equally clearly, this approach increases certainty in interpretation of those effects that do appear, and this confidence amply justifies the adoption of the more conservative approach. Moreover, since we are interested in the effects of the delivery system on the overall court system, as well as on the individuals involved, all cases going through the system, not just those with representation, must be included in the sample. Eventual policy recommendations must be based on how a delivery system affects the overall

court system, not just those cases proceeding with representation.

7. Data Analysis:

With several stages of research and a wide variety of types of data, a wide variety of statistical analyses will be necessary. The major body of the data will be coded for computer processing. The facilities and services (including a variety of pre-packaged social science programs) of the University of Toronto would be available if required.

6. PROPOSED TIME FRAME

The project is divided into a number of phases:

1) Initial preparation and piloting of the data collection instruments and training of observer/interviewers - 2 months

2) Pre-test: 3 months is the minimum period in which to conduct a pre-test in delinquency and child welfare hearings. No formal pre-test will be undertaken in family court custody proceedings - 3 months

3) Start up period for the implementation of the reforms - no data will be collected in this period of initial adjustment for the three modifications in the delivery system. Further piloting and refinement of the instruments will be undertaken here- 2 months

4) Data collection stage 1: collection of data on the new delivery systems under central administrative control - 6 months

5) Data collection stage 2: collection of data on the new delivery systems under local administrative control - 6 months

Total data collection time =19 months

6) Data coding and analysis - 5 months

7) Data interpretation and report writing - 5 months

TOTAL TIME TO COMPLETION OF FINAL REPORT =29 months

7. REVISED RESEARCH PROPOSAL: LEGAL REPRESENTATION IN DELINQUENCY HEARINGS

This revised research design is based on and developed out of the design and methodology found in Parts 3 and 4 of this research proposal. The larger proposal was concerned with legal representation in delinquency, child welfare and custody hearings. This modified proposal

1) is concerned only with delinquency hearings
2) would evaluate only three (rather than the originally proposed four) delivery systems
3) would be completed in a shorter time period and
4) would involve only one administrative body (and not two, as originally planned)

As noted, this design proposes to evaluate three separate delivery systems in JDA hearings only. The delivery systems are:

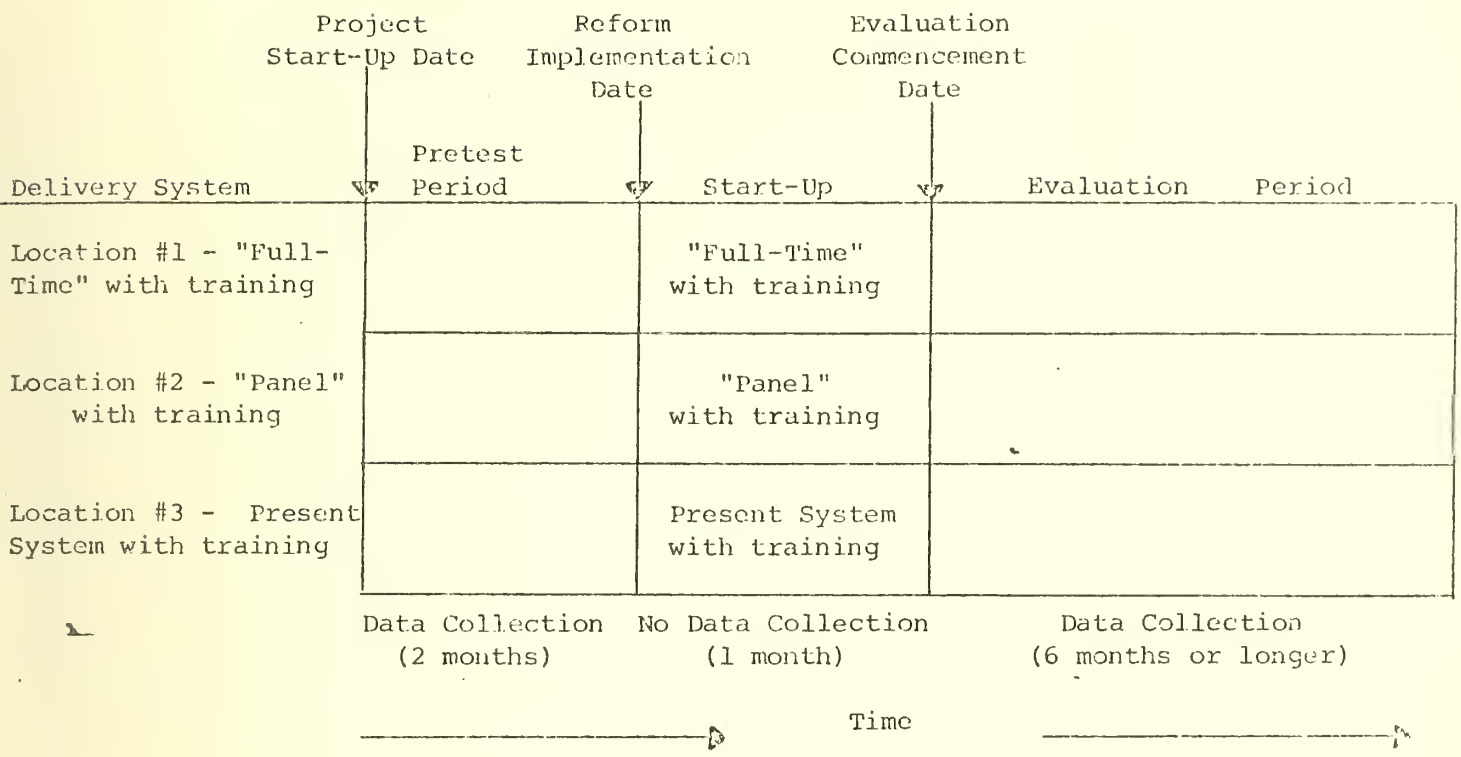
(1) Full-time with training

(2) Panel system with training

(3) Present system with training.

For details of the delivery systems, pilot project implementation, and the research design and methodology, the reader is referred to Parts 3 and 4 of this research proposal. Each delivery system would be implemented in a different physical location, the locations being chosen on the basis of initial similarity. The following diagram summarizes the research design.

JDA HEARINGS



Comments on this Design:

1. The same delivery system would be implemented in all the courts at any one location, to deal with the problem of shared case-loads.

2. To implement the full-time system properly, there must be a sufficient number of cases to employ at least one lawyer full-time. Using all courts in one physical location more adequately ensures that this will occur.

3. All delivery systems would operate under the aegis of Legal Aid.

4. There is no cost of hiring additional lawyers in this proposal. Legal Aid already pays for lawyers for children in JDA hearings, so the costs of the different methods of delivering these legal services should remain approximately the same, or even decrease because of increased efficiency.

5. Central concerns of this research

(1) to assess the quality of legal services provided under each delivery system, i.e., which system provides the most timely and effective legal services in terms of both the overall court system and the participants;

(2) the effects of a training programme on the quality of service in each delivery system;

(3) the preferred role and orientation of the lawyer in each delivery system (i.e., in the present duty counsel system the lawyer provides more of a screening and referral service rather than performing an "adversarial" or "advocate" role.);

(4) the child's ability to understand the nature and purpose of the proceedings, especially with respect to the lawyer's role, and his ability to instruct counsel;

(5) the effects of the court experience on the child's attitudes toward the court, the lawyer, the legal system, etc.; and

(6) to the extent possible, this research would also assess the degree to which various methods are used within the present JDA system to provide children with representation, and the relative merits of each method.

8. RESEARCH REFERENCES

Anderson, Richard, Representation in The Juvenile Court (London: Routledge & Kegan Paul Ltd., 1978).

Campbell, D. and Stanley, J., Experimental and Quasi-Experimental Designs for Research (Chicago: Rand McNally, 1966).

Catton, K. and Erickson, P., The Juvenile's Perception of the Role of Defence Counsel in Juvenile Court: A Pilot Study (Working Paper, Toronto: Centre of Criminology, University of Toronto, 1975).

Child Advocacy Unit, First Annual Report (Philadelphia: Defender Association of Philadelphia, 1976-77).

Dootjes, Inez, Erickson, P. and Fox, R., Defence Counsel in Juvenile Court: A Variety of Roles (1972), 14 Can. J. Crim. & Corr. 137.

Erickson, P., Legalistic and Traditional Role Expectations for Defence Counsel in Juvenile Court (1975), 17 Can. J. of Crim. and Corr. 78.

Erickson, P., The Defence Lawyer's Role in Juvenile Court: An Empirical Investigation into Judges' and Social Workers' Points of View (1974), 24 U.T.L.J. 126.

Green, Bernard, The Determination of Delinquency in the Juvenile Court of Metropolitan Toronto (unpublished S.J.D. dissertation, Cambridge, Mass.: Harvard University, 1968).

Handler, Ellen and Proch, Kathleen, Dragon or Paper Tiger: Teenagers' Perceptions of the Criminal Justice System (Illinois: University of Illinois, 1977).

Langley, M., Thomas, B. and Parkinson, R., Youths' Expectations and Perceptions of their Initial Court Appearances (1978) Can. J. Crim. & Corr. 43.

Lemert, E., Legislating Change in the Juvenile Court (1967) Wisconson Law Review 421.

Lempert, R., Strategies of Research Design in the Legal Impact Study (1966) 1 Law & Society Review III.

Rovner-Precenik, R., Rapoport, A., and Lane, M., Evaluation Design for Public Defender Offices (Washington: L.E.A.A., 1977).

Stapleton, W. and Teitelbaum, L, In Defense of Youth (New York: Russel Sage, 1972).

Suchman, Edward, Evaluative Research (New York: Russel Sage Foundation, 1967).

Webb, E., Campbell, D. T., Schwartz, R. and Sechrest, L., Unobtrusive Measures: Nonreactive Research in the Social Sciences (Chicago: Rand McNally & Co., 1969).

Weiss, C., Evaluation Research (Englewood Cliffs: Prentice - Hall, 1972).

Wilks, Corinne, Birnie, L. and Chamberlain, C., The Impact of a Court Experience on Juvenile Delinquents and their Families Toronto Family Court Clinic, 1978, prepublication drafts.